



General Assembly

January Session, 2017

***Raised Bill No. 7257***

LCO No. 5123



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING GRAND JURY REFORM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-47b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 For the purposes of sections 54-47a to 54-47h, inclusive:

4 (1) "Applicant" means [any judge of the Superior Court, Appellate  
5 Court or Supreme Court,] the Chief State's Attorney or a state's  
6 attorney who makes an application to a panel of judges for an  
7 investigation into the commission of a crime or crimes.

8 (2) "Crime or crimes" means (A) any crime or crimes involving  
9 corruption in the executive, legislative or judicial branch of state  
10 government or in the government of any political subdivision of the  
11 state, (B) [fraud by a vendor of goods or services in the medical  
12 assistance program under Title XIX of the Social Security Act  
13 Amendments of 1965, as amended, (C) any violation of chapter 949c,  
14 (D)] any crime or crimes involving the abuse of authority conferred by

15 law upon any officer, member, or employee of the executive,  
16 legislative or judicial branch of state government or in the government  
17 of any political subdivision of the state, (C) any violation of the  
18 election laws of the state, [(E) any felony involving the unlawful use or  
19 threatened use of physical force or violence committed with the intent  
20 to intimidate or coerce the civilian population or a unit of government,  
21 and (F)] and (D) any other class A, B or C felony or any unclassified  
22 felony punishable by a term of imprisonment in excess of five years  
23 [for which] that the Chief State's Attorney or state's attorney  
24 reasonably suspects to have been committed and for which such chief  
25 state's attorney or state's attorney demonstrates that [he or she has no  
26 other means of obtaining sufficient information as to whether a crime  
27 has been committed or the identity of the person or persons who may  
28 have committed a crime] the interests of justice require the use of an  
29 investigatory grand jury.

30 (3) "Investigatory grand jury" means a judge, constitutional state  
31 referee or any three judges of the Superior Court, other than a judge  
32 designated by the Chief Justice to serve on the panel, appointed by the  
33 Chief Court Administrator to conduct an investigation into the  
34 commission of a crime or crimes.

35 (4) "Panel of judges" or "panel" means a panel of three Superior  
36 Court judges designated by the Chief Justice of the Supreme Court  
37 from time to time to receive applications for investigations into the  
38 commission of crimes in accordance with the provisions of sections 54-  
39 47a to 54-47h, inclusive, one of whom may be the Chief Court  
40 Administrator.

41 (5) "Target of the investigation" or "target" means a person who is  
42 reasonably suspected of committing a crime or crimes within the scope  
43 of the investigation.

44 Sec. 2. Section 54-47c of the general statutes is repealed and the  
45 following is substituted in lieu thereof (*Effective October 1, 2017*):

46 (a) [Any judge of the Superior Court, Appellate Court or Supreme  
47 Court, the] The Chief State's Attorney or a state's attorney may make  
48 application to a panel of judges for an investigation into the  
49 commission of a crime or crimes whenever such applicant [has  
50 reasonable belief] reasonably suspects that a crime or crimes have been  
51 committed and attests that the [administration] interests of justice  
52 [requires] require that an investigation [to determine whether or not  
53 there is probable cause to believe that a] be conducted into such crime  
54 or crimes. [have been committed] The applicant or an attorney or  
55 attorneys designated by such applicant shall conduct the investigation.

56 (b) Each application for an investigation into the commission of a  
57 crime or crimes shall be made in writing upon oath or affirmation to a  
58 panel of judges. Each application shall include the following  
59 information: (1) The identity of the applicant and [his] such applicant's  
60 authority to make such application; (2) a full and complete statement  
61 of the facts and circumstances relied upon by the applicant to justify  
62 [his] such applicant's reasonable suspicion that a crime has been  
63 committed, and reasonable belief that the [investigation will lead to a  
64 finding of probable cause that a crime or crimes have been committed]  
65 interests of justice require the use of an investigatory grand jury,  
66 including the reasons why the ability to compel the attendance of  
67 witnesses and the production of documents and other tangible  
68 evidence will substantially aid the investigation; and (3) a full and  
69 complete statement of the facts concerning all previous applications  
70 known to the applicant, made to any panel of judges, for investigation  
71 of any one or more of the same criminal offenses involving any of the  
72 same persons specified in the application, including the action taken  
73 by the panel on each such application. The panel of judges may require  
74 such additional testimony or documentary evidence in support of facts  
75 in the application as it deems necessary. Such additional testimony  
76 shall be transcribed.

77 [(c) If the application is made by the Chief State's Attorney or a  
78 state's attorney, it shall also include (1) a full and complete statement

79 of the status of the investigation and of the evidence collected as of the  
80 date of such application, (2) if other normal investigative procedures  
81 have been tried with respect to the alleged crime, a full and complete  
82 statement specifying the other normal investigative procedures that  
83 have been tried and the reasons such procedures have failed or the  
84 specific nature of the alleged crime or the nature of the investigation  
85 that leads the applicant to reasonably conclude that the use of normal  
86 investigative procedures would not result in the obtaining of  
87 information that would advance the investigation or would fail to  
88 secure and preserve evidence or testimony that might otherwise be  
89 compromised, (3) if other normal investigative procedures have not  
90 been tried, a full and complete statement of the reasons such  
91 procedures reasonably appear to be unlikely to succeed if tried or be  
92 too dangerous to employ, and (4) a full and complete statement of the  
93 reasons for the applicant's belief that the appointment of an  
94 investigatory grand jury and the investigative procedures employed  
95 by such investigatory grand jury will lead to a finding of probable  
96 cause that a crime or crimes have been committed.]

97 [(d)] (c) The panel may approve the application and order an  
98 investigation into the commission of a crime or crimes if it finds  
99 reasonable suspicion that a crime or crimes have been committed, that  
100 [(1) the administration of justice requires an investigation to determine  
101 whether or not there is probable cause to believe that a crime or crimes  
102 have been committed, (2) if the application was made by the Chief  
103 State's Attorney or a state's attorney, other normal investigative  
104 procedures with respect to the alleged crime have been tried and have  
105 failed or reasonably appear to be unlikely to succeed if tried or be too  
106 dangerous to employ or, due to the specific nature of the alleged crime  
107 or the nature of the investigation, it is reasonable to conclude that the  
108 use of normal investigative procedures would not result in the  
109 obtaining of information that would advance the investigation or  
110 would fail to secure and preserve evidence or testimony that might  
111 otherwise be compromised, and (3) the investigative procedures

112 employed by an investigatory grand jury appear likely to succeed in  
113 determining whether or not there is probable cause to believe that a  
114 crime or crimes have been committed] the interests of justice require  
115 the use of an investigatory grand jury, and that allowing the applicant  
116 to compel the attendance of witnesses and the production of  
117 documents and other tangible evidence will substantially aid the  
118 investigation.

119 Sec. 3. Section 54-47d of the general statutes is repealed and the  
120 following is substituted in lieu thereof (*Effective October 1, 2017*):

121 (a) If the panel approves the application and orders an investigation  
122 into the commission of a crime or crimes, the Chief Court  
123 Administrator shall (1) appoint an investigatory grand jury [to conduct  
124 the investigation] before which sworn testimony may be taken and  
125 documents and other tangible evidence produced, and (2) designate  
126 the court location in the judicial district where any motions to quash  
127 and any contempt proceedings shall be heard and any findings and  
128 records of the investigation shall be filed.

129 (b) Each order authorizing the investigation into the commission of  
130 a crime or crimes by the panel shall specify: (1) The date of issuance of  
131 the order, (2) the period of time within which the investigation is to be  
132 conducted, provided in no event shall the investigation be longer than  
133 [six] twelve months from the date the Chief Court Administrator  
134 appoints the investigatory grand jury, [to conduct the investigation,]  
135 unless an application for an extension of time is filed and granted  
136 pursuant to subsection (c) of this section, (3) the scope of the  
137 investigation, [and] (4) the crime or crimes that are reasonably  
138 suspected of having been committed, and (5) the panel's reasons for  
139 finding that [(A) the administration of justice requires an investigation  
140 to determine whether or not there is probable cause to believe that a  
141 crime or crimes have been committed, (B) if the application was made  
142 by the Chief State's Attorney or a state's attorney, other normal  
143 investigative procedures with respect to the alleged crime have been

144    tried and have failed or reasonably appear to be unlikely to succeed if  
145    tried or be too dangerous to employ, or, due to the specific nature of  
146    the alleged crime or the nature of the investigation, it is reasonable to  
147    conclude that the use of normal investigative procedures would not  
148    result in the obtaining of information that would advance the  
149    investigation or would fail to secure and preserve evidence or  
150    testimony that might otherwise be compromised, and (C) the  
151    investigative procedures employed by the investigatory grand jury  
152    appear likely to succeed in determining whether or not there is  
153    probable cause to believe that a crime or crimes have been committed]  
154    the interests of justice require the use of an investigatory grand jury,  
155    including the reasons why the ability to compel the attendance of  
156    witnesses and the production of documents and other tangible  
157    evidence will substantially aid the investigation. The panel shall retain  
158    a copy of the order and the original application and shall transmit to  
159    the investigatory grand jury, appointed pursuant to subsection (a) of  
160    this section, the original order and a copy of the application filed with  
161    the panel.

162       (c) The investigatory grand jury may make an application to the  
163    panel of judges for an extension of time within which to conduct [its]  
164    the investigation or for an amendment to the scope of [its] the  
165    investigation. The application for extension or amendment shall set  
166    forth the reasons for the [necessity of such] extension or amendment.  
167    No more than two extensions or amendments of an order may be  
168    granted by the issuing panel. The period of any extension shall be no  
169    longer than the panel deems necessary to achieve the purposes for  
170    which [it] the extension was granted and in no event shall any  
171    extension be for a period longer than six months.

172       Sec. 4. Section 54-47f of the general statutes is repealed and the  
173    following is substituted in lieu thereof (*Effective October 1, 2017*):

174       [(a) The investigatory grand jury, in conducting the investigation,  
175    may (1) seek the assistance of the Chief State's Attorney or state's

176 attorney who filed the application, or his designee, (2) appoint an  
177 attorney to provide assistance if a judge of the Superior Court,  
178 Appellate Court or Supreme Court filed the application or (3) appoint  
179 any other attorney to provide assistance when necessary in the interest  
180 of justice.]

181 [(b)] (a) (1) The [attendance] appearance of witnesses and the  
182 production of documents [at such investigation] or other tangible  
183 evidence before an investigatory grand jury may be compelled by  
184 subpoena, signed by any official authorized to issue such process.

185 (2) No subpoena may be issued by the Chief State's Attorney or a  
186 state's attorney unless the investigatory grand jury approves the  
187 issuance of such subpoena. In determining whether to approve the  
188 issuance of such subpoena, the investigatory grand jury may consider  
189 whether the person to be summoned to appear and give testimony or  
190 produce documents or other tangible evidence has information  
191 relevant to the investigation. Any subpoena issued pursuant to this  
192 subdivision shall be served at least seventy-two hours before the date  
193 of appearance, not including Saturdays, Sundays or legal holidays, and  
194 contain a notice advising the person summoned (A) whether such  
195 person is a target of the investigation, (B) that such person has the right  
196 to have counsel present when such person is being examined by the  
197 investigatory grand jury and to consult with such counsel, (C) that if  
198 such person is indigent, such person has the right to have counsel  
199 appointed to represent such person, and (D) that such person has the  
200 right not to be compelled to be a witness, or give evidence, against  
201 himself or herself.

202 (3) No person summoned to appear and give testimony or produce  
203 documents or other tangible evidence shall be required to testify or  
204 produce documents or other tangible evidence if (A) compliance with  
205 the subpoena by such person would be unduly burdensome or  
206 oppressive, (B) the primary purpose of the issuance of the subpoena is  
207 to harass the person subpoenaed, (C) such person has already been

208 punished pursuant to subsection (c) of this section for such person's  
209 refusal to testify or produce documents or other tangible evidence  
210 before any investigatory grand jury related to the same crime or  
211 crimes, or (D) such person has not been advised of such person's rights  
212 as specified in subdivision (2) of this subsection.

213 (b) Any person summoned to appear and give testimony or produce  
214 documents or other tangible evidence pursuant to subsection (a) of this  
215 section may apply to the court of the judicial district designated by the  
216 Chief Court Administrator pursuant to subsection (a) of section 54-47d,  
217 as amended by this act, for the appointment of counsel to represent  
218 such person before the investigatory grand jury. Such person shall file  
219 with the court a sworn financial affidavit of indigency in such form as  
220 shall be prescribed by the Judicial Branch. If the court determines that  
221 such person is indigent, the court shall appoint counsel to represent  
222 such person. The Division of Public Defender Services shall maintain a  
223 list of trial counsel with experience in advising or defending  
224 defendants in criminal proceedings whom the court may appoint to  
225 represent such person summoned to appear and give testimony or  
226 produce documents or other tangible evidence before an investigatory  
227 grand jury. The cost for such counsel shall be established by, and paid  
228 from funds appropriated to, the Judicial Branch.

229 (c) If any witness properly summoned fails to appear or to produce  
230 any documents or other tangible evidence included in the subpoena, or  
231 if [he] such witness fails to answer any proper question, the  
232 investigatory grand jury [conducting the investigation] may report the  
233 matter to the state's attorney for the judicial district which has been  
234 designated [in] under subsection (a) of section 54-47d, as amended by  
235 this act, unless such state's attorney is the applicant, [or has been  
236 appointed to assist in such investigation,] in which case the  
237 investigatory grand jury shall report the matter to the Chief State's  
238 Attorney, and such state's attorney or Chief State's Attorney, as the  
239 case may be, may file a complaint setting forth the facts at any criminal  
240 session of the superior court in such judicial district. The court shall



241 thereupon issue a citation to the witness to appear before the court and  
242 show cause why [he] such witness should not be punished as for a  
243 contempt, and if, after hearing, the court finds that [he] such witness  
244 failed to appear without due cause or failed to produce any document  
245 or other tangible evidence properly to be presented to the  
246 investigatory grand jury or failed to answer any proper question in the  
247 course of the investigation, it may punish [him] such witness as it  
248 might a witness failing to appear, to produce a document properly to  
249 be considered or to answer a proper question before the court.

250 (d) Witnesses may be examined by the investigatory grand jury  
251 [conducting the investigation] or by any attorney or attorneys  
252 [appointed by such investigatory grand jury for such purpose]  
253 conducting the investigation. At the hearing, the [official] attorney or  
254 attorneys conducting the investigation shall inform the witness that  
255 [he] such witness has the right to have counsel present and to consult  
256 with such counsel. A witness shall have the right to leave the  
257 investigatory grand jury room to consult with such witness's counsel at  
258 reasonable times and for a reasonable period of time upon the request  
259 of the witness.

260 (e) (1) The [official] attorney or attorneys conducting the  
261 investigation shall inform [any] a witness who is a target [of the  
262 investigation that he] that such witness is a target and [shall advise  
263 him that he] such witness has the right under the Constitution of the  
264 United States and the Constitution of Connecticut not to be compelled  
265 to be a witness, or to give evidence, against himself or herself. Neither  
266 the Chief State's Attorney nor a state's attorney shall summon before  
267 an investigatory grand jury a target who has stated through such  
268 person's counsel that such person intends to invoke such person's  
269 privilege against self-incrimination.

270 (2) A target may testify before the investigatory grand jury. The  
271 attorney or attorneys conducting the investigation shall notify such  
272 target of such person's right to testify, unless notification may result in

273 such person's flight, endanger other persons or obstruct justice or  
274 unless such attorney or attorneys are unable to notify the target with  
275 reasonable diligence. A target may request, orally or in writing, the  
276 investigatory grand jury to cause a person identified by such target to  
277 be summoned as a witness in the investigation. The investigatory  
278 grand jury may summon such witness pursuant to subsection (a) of  
279 this section.

280 (f) Any attorney appointed to [assist in conducting] conduct the  
281 investigation shall disclose to the investigatory grand jury any  
282 exculpatory information or material in [his] such attorney's possession,  
283 custody or control concerning any person who is a target. [of the  
284 investigation.]

285 (g) An official stenographer of the Superior Court or [his] such  
286 stenographer's assistant shall record any testimony taken at the  
287 investigation.

288 Sec. 5. Section 54-47g of the general statutes is repealed and the  
289 following is substituted in lieu thereof (*Effective October 1, 2017*):

290 (a) [Within] Not later than sixty days [of] after the conclusion of the  
291 investigation, the investigatory grand jury conducting such  
292 investigation shall file its finding with the court of the judicial district  
293 designated by the Chief Court Administrator pursuant to subsection  
294 (a) of section 54-47d, as amended by this act, and shall file a copy of its  
295 finding with the panel and with the Chief State's Attorney or a state's  
296 attorney. [if such Chief State's Attorney or state's attorney made  
297 application for the investigation.] The stenographer shall file any  
298 record of the investigation with the court of the judicial district  
299 designated by the Chief Court Administrator pursuant to subsection  
300 (a) of section 54-47d, as amended by this act, and the panel and the  
301 Chief State's Attorney or a state's attorney, if such Chief State's  
302 Attorney or state's attorney made application for the investigation,  
303 shall have access to such record upon request made to the clerk of the

304 court without a hearing. Such finding shall state whether or not there  
305 is probable cause to believe that a crime or crimes have been  
306 committed. Except as otherwise provided in this section, any part of  
307 the record of the investigation not disclosed with the finding pursuant  
308 to subsection (b) of this section shall be sealed, [provided] except that  
309 any person may file an application with the panel for disclosure of any  
310 such part of the record. Upon receipt of such application, the panel  
311 shall, after notice, hold a hearing and the panel, by a majority vote,  
312 may disclose any such part of the record when such disclosure is  
313 deemed by the panel to be in the public interest, except that no part of  
314 the record shall be disclosed which contains allegations of the  
315 commission of a crime by an individual if the investigatory grand jury  
316 failed to find probable cause that such individual committed such  
317 crime unless such individual requests the release of such part of the  
318 record. Any person aggrieved by an order of the panel shall have the  
319 right to appeal such order by filing a petition for review with the  
320 Appellate Court [within] not later than seventy-two hours [from] after  
321 the issuance of such order.

322 (b) The finding of the investigation shall be open to public  
323 inspection and copying at the court where it has been filed for seven  
324 calendar days after it has been filed, unless within that period the  
325 Chief State's Attorney or a state's attorney with whom the finding was  
326 filed files a motion with the investigatory grand jury requesting that a  
327 part or all of such finding not be so disclosed. The finding may include  
328 all or such part of the record as the investigatory grand jury may  
329 determine, except that no part of the record shall be disclosed which  
330 contains allegations of the commission of a crime by an individual if  
331 the investigatory grand jury failed to find probable cause that such  
332 individual committed such crime unless such individual requests the  
333 release of such part of the record. In such event as much of the finding  
334 as has not been sought to be withheld from disclosure shall be  
335 disclosed promptly upon the expiration of said seven-calendar-day  
336 period.

337 (c) [Within] Not later than fifteen calendar days [of] after the filing  
338 of such motion, the investigatory grand jury shall conduct a hearing.  
339 The investigatory grand jury shall give written notice of such hearing  
340 to the person filing such motion and any other person the  
341 investigatory grand jury deems to be an interested party to the  
342 proceedings, which may include, but not be limited to, persons who  
343 testified or were the subject of testimony before the investigatory  
344 grand jury. [Within] Not later than five calendar days [of] after the  
345 conclusion of the hearing, the investigatory grand jury shall render its  
346 decision, and shall send copies thereof to all those to whom it gave  
347 notice of the hearing. It shall deny any such motion unless it makes  
348 specific findings of fact on the record that there is a substantial  
349 probability that one of the following interests will be prejudiced by  
350 publicity that nondisclosure would prevent, and that reasonable  
351 alternatives to nondisclosure cannot adequately protect that interest:  
352 (1) The right of a person to a fair trial; (2) the prevention of potential  
353 defendants from fleeing; (3) the prevention of subornation of perjury  
354 or tampering with witnesses; or (4) the protection of the lives and  
355 reputations of innocent persons which would be significantly damaged  
356 by the release of uncorroborated information. Any order of  
357 nondisclosure shall be drawn to protect the interest so found.

358 (d) Any person aggrieved by an order of the investigatory grand  
359 jury shall have the right to appeal such order by filing a petition for  
360 review with the Appellate Court [within] not later than seventy-two  
361 hours [from] after the issuance of such order.

362 (e) The Appellate Court shall provide an expedited hearing on such  
363 petition in accordance with such rules as the judges of the Appellate  
364 Court may adopt, consistent with the rights of the petitioner and the  
365 parties.

366 (f) Notwithstanding the existence of an order of nondisclosure  
367 under this section, any witness may apply in writing to the presiding  
368 judge of the criminal session of the court of the judicial district wherein

369 the record of the investigation has been filed, or [his] such judge's  
 370 designee, for access to and a copy of the record of [his] such witness's  
 371 own testimony. Any witness shall be allowed access, at all reasonable  
 372 times, to the record of [his] such witness's own testimony and be  
 373 allowed to obtain a copy of such record unless [said] such judge or  
 374 [his] such judge's designee finds after a hearing and for good cause  
 375 shown that it is not in the best interest of justice to allow the witness to  
 376 have access to and a copy of the record of [his] such witness's  
 377 testimony.

378 (g) [Notwithstanding the existence of an order of nondisclosure  
 379 under this section, the] The presiding judge of the criminal session of  
 380 the court of the judicial district wherein the record of the investigation  
 381 has been filed, or [his] such judge's designee, shall grant any written  
 382 request of a person accused of a crime as a result of the investigation to  
 383 have access, at all reasonable times, to the record of [his] such person's  
 384 own testimony and to obtain a copy of such record.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	54-47b
Sec. 2	<i>October 1, 2017</i>	54-47c
Sec. 3	<i>October 1, 2017</i>	54-47d
Sec. 4	<i>October 1, 2017</i>	54-47f
Sec. 5	<i>October 1, 2017</i>	54-47g

**Statement of Purpose:**

To reform the investigatory grand jury system to provide for its more efficient operation and to facilitate the effective investigation of criminal conduct involving abuse of governmental authority.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*